

Application No.: 09/397,008

Docket No.: 21736-00012-US

REMARKS

This amendment is responsive to the Office Action of April 15, 2003 and an accompanying request for a three-month extension of time makes this response timely.

This application was filed with claims 1-46. A preliminary amendment was filed which requested cancellation of claims 1-25, 31-42 and 47 and added new claims which were numbered 48-76. A Supplemental Preliminary amendment was also filed adding claims numbered 77-108. Since the application was filed with only 46 claims, the claims added in the preliminary amendment which were numbered 48-76 were apparently re-numbered as claims 47-75 and the claims added in the Supplemental Preliminary Amendment were apparently re-numbered as claims 76-107. Thus, after the re-numbering and prior to this amendment claims 26-30, and 43-107 were pending, as is set forth in the Action. The claims reproduced in the claim listing included herein have been numbered in accordance with the foregoing.

The Office Action indicated that claims 26-30 and 43-107 were pending. The Office Action indicated that claims 26-30 and 43-70 were allowed, while the remaining claims, claims 71-107 were rejected.

Claims 76-107 were rejected under 35 USC 112, second paragraph as indefinite. In particular, the Office Action asserted that claim 76 is vague and indefinite because it is not clear "how the bid's inputted from step 'a' can be differentiated from the bids inputted from step 'c'. See claim 92 for the same informalities (multiple input means)".

Claims 71-75 were rejected as anticipated by Lawrence (U.S. Patent No. 5,915,209).

By this amendment, applicant has cancelled claims 71-75 and presented new claims 108-185. New claims 182-185 were drafted along the lines of the rejected claims 71-75.

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Turning to the rejection of claims 76-107 under 35 USC 112, second paragraph.

The Office Action recites that claim 76 is vague because it is not clear how the bids inputted from step 'a' can be differentiated from the bids inputted from step 'c'. Applicant submits that the claim is precise, e.g., step b) specifies "determining at the computer, based on the bids of step a, . . ." There can be no doubt that the determining of step b) is based on the bids "of step a)" and that is for the reason that this is exactly what is recited in the claim. Step d) of claim 76 calls for "determining at the computer, subsequent to the inputting of step c)..." It is clear from the language of step d), as amended, that the bids which are involved in the determining of step d) are those bids the bids input at step c).

The Office Action questions "how the bids . . . can be differentiated." While there may be many techniques which can be used to differentiate bids in one round from bids in another round the specification reveals that a bid may include "the current round number" (p. 12, line 6). Thus, one way to differentiate bids between rounds is by looking at the round number element of the bid.

Applicant submits that claim 92 has a similar makeup. In other words, the first determining means is specifically recited as operating "based on the bids detected by the input means." The "second determining means" is expressly recited as operating on bids "detected by the second input means" which receives bids "after operation of the first determining means." One way to differentiate the first input means from the second input means for example, is based on the round number of the bid. There may well be other means of differentiating between the first and second input means. Applicant submits that claim 92 is precise and does not run afoul of the requirements of 35 USC 112, second paragraph.

The MPEP comments that a primary purpose the definiteness requirement is "to ensure that the scope of the claims is clear", §2173. Applicant submits that, as demonstrated above, there is no question about the scope of claims 76 and 92.

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In view of the foregoing reconsideration and withdrawal of the rejection of claims 76-107 under 35 USC 112, second paragraph, is solicited.

Applicant has added new claims 108-185, including independent method claims 108, 125, 160, 174 and 182 and independent system claims 134, 150, 167, 178 and 184. Claims 108-181 are patterned along the lines of claims 43-70. Inasmuch as these claims were not rejected applicant asserts that claims 108-181 should be considered patentable as well. Claims 108 and 125 and 174 for example includes steps of "transmitting ...", "receiving ...", "determining ...", "generating ..." and "initiating ..." as does allowed claim 47. System claims 134 and 150 include generally similar subject matter

Claims 71-75 were rejected as anticipated by Lawrence (U.S. Patent No. 5,915,209). Although applicant has cancelled claims 71-75, similar subject matter has been reintroduced as new claims 182-185. Applicant submits that new claims 182-185 clearly and patentably define over Lawrence for reasons that will be described hereinafter.

Claim 182 is directed at a method for using a computer to implement an auction. The method of claim 182 is recited in two steps. Step (a) calls for "receiving bids submitted by a plurality of bidders, each said bid received at a computer and including **transaction curve** information from a bidder" (emphasis added). Step (b) recites "generating signals, each said signal generated at a computer and representing the **transaction curve** information from a bidder corresponding to a current price." (emphasis added)

The rejection states that Lawrence teaches a means for receiving information (i.e., transaction information) from a plurality of bid entry terminals and a means for determining the quantity of securities which would be awarded to the winning bidders. The rejection, however, fails to allege that Lawrence teaches a step of "receiving. . . transaction curve information. . ." and a step of "generating signals. . . representing the transaction curve information. . ." which is the claimed subject matter. The specification is particular that the term transaction covers both demand and supply (e.g., transactions apply to activities of both buyer and seller, see p. 5, line 25 through p. 6 line 2). The specification further describes that "a demand curve is a table of the

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quantity which a bidder desires at each possible price that may be named in the course of the auction.” p. 14, lines 6-7. Since a demand curve is a specie of a transaction curve, it follows that the specification defines that a transaction curve is a table of a quantity which a bidder desires (or offers) at different prices.

Applicant has reviewed the Lawrence patent and has failed to find anywhere within the confines of the Lawrence patent, any suggestion that a bid is anything but a single price for a lot. In particular, applicant has not found that Lawrence describes a transaction curve (or a demand curve or supply curve) which is a table of the quantity which a bidder desires (or offers) at different prices. In view of the foregoing, it is apparent that Lawrence fails as an anticipation of claim 182, because it fails to describe a step of “receiving. . . transaction curve information” as is called for in clause a) of claim 182. Likewise, Lawrence fails as an anticipation since there is no description in Lawrence of “generating signals. . . representing transaction curve information” as is called for in clause b) of claim 182. In view of the foregoing, applicant submits that claim 182 patentably defines over Lawrence. Claim 183, which depends on claim 182 is patentable for the same reasons.

Claim 184 is a claim directed at a computer system for implementing an auction. The first clause of 184 calls for “receiving means for receiving bids. . .including transaction curve information.” Clause b) of claim 184 calls for “generating means for generating signals representing the transaction curve information.” As has been described, while Lawrence may describe a computer-implemented auction, applicant has been unable to find in Lawrence any description of a “means for receiving. . . transaction curve information. . .” as called for in clause a). Likewise, applicant has reviewed the Lawrence patent and been unable to find any description of a “generating means to generating signals. . . representing the transaction curve . . .” as called for in clause b). Applicant has, therefore, concluded that Lawrence fails to anticipate or render unpatentable the subject matter of claim 184. Inasmuch as claim 185 depends on claim 184, applicant considers each of that claim patentable for the same reasons. In

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view of the foregoing, reconsideration of this application and allowance with claims 26-30, 43-70 and 76-185 is solicited.

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Respectfully submitted,

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